

## REVOCABLE NON-EXCLUSIVE LICENSE AGREEMENT

This Non-Exclusive Revocable License Agreement ("License"), dated \_\_\_\_\_, 2017 ("Effective Date") is made by and between the City of Santa Rosa, a municipal corporation ("City") and Zipcar, Inc., a Delaware corporation ("Licensee").

### RECITALS

- A. City owns and operates surface parking lots known as the Depot Lot, 9 4th St, Santa Rosa, California (APN 010-171-005) and Lot 10, 730 5th Street, Santa Rosa, CA (APN 090-012-025) ("Property").
- B. Licensee represents that is a duly qualified car share operator, experienced in the operations of car share systems, including retail, repair, rental, marketing, customer service and related services ("Services").
- C. Licensee desires to obtain a license from City to obtain one reserved parking space in the Depot Lot and one reserved parking space in Lot 10 ("Spaces") for exclusive use by Licensee's vehicles available for car share services.
- D. City is willing to grant a license to Licensee on the terms and conditions hereinafter set forth.

### LICENSE

Now, therefore, the parties agree as follows:

1. GRANT OF LICENSE: City grants to Licensee, subject to the conditions and covenants of this License, a non-exclusive revocable license for the purpose of using the Spaces, together with the necessary rights of ingress and egress over Property.
2. NONEXCLUSIVENESS OF LICENSE: This License is nonexclusive. City shall continue to control Property, including, without limitation, the right to issue additional licenses.
3. TERM OF LICENSE: Subject to Section 14, the term of this License shall commence on the Effective Date. This License shall continue until it is terminated upon one of the following occurrences, whichever is earliest:
  - a. Either party may terminate this License by giving the non-terminating party at least thirty (30) calendar days advance written notice.

- b. The License shall be deemed terminated upon Licensee's discontinuance of the use of Spaces for one month.
- c. If Licensee defaults with respect to any obligation, covenant or condition of this License and fails to correct the default within thirty (30) days after receipt of notice from City to do so, City may immediately terminate this License by notice to Licensee.
- d. One year from the Commencement Date, unless extended in writing, executed by both parties.

City shall, at Licensee's sole cost and expense, and within thirty (30) days after the date of the notice of termination or within thirty (30) days after the date the License is deemed terminated, or upon the expiration of this License as set forth in Subsection (d) above, whichever of the foregoing may first occur, remove any improvements which may have been installed in the Spaces for the benefit of Licensee, such as signage, striping or pavement markings, from Property and restore Property and any improvements thereon to the condition that it was in immediately prior to the Effective Date.

4. **RELOCATION OF SPACES:** City shall designate the location of Spaces, with input from Licensee, on Property for Licensee to park its vehicles. City may, at its discretion, relocate the Spaces on the Property during the term of this License. City will endeavor to provide at least seven days written notice, prior to any relocation of a Space.
5. **SUCCESSORS AND ASSIGNS:** The License granted herein is personal to Licensee and no right hereunder may be assigned or sublet, in whole or in part, and Licensee shall not permit any other person, firm, or corporation to use, in whole or in part, any of the rights or privileges granted pursuant to this License without first obtaining the written consent of City. City may withhold its consent to a transfer of this License in its sole and absolute discretion. As a condition to any transfer of this License approved by City, the successor in interest shall be required to execute a Revocable Non-Exclusive License Agreement with City and provide the insurance coverage required herein.
6. **PARKING ENFORCEMENT:** City shall provide periodic parking enforcement services to the Property, during normal business hours, consistent with its normal operations. City does not warrant or guarantee that Spaces will be unoccupied by unauthorized vehicles. City will install reserved parking signage, at Licensee's expense. City requires that Licensee submit all proposed signage and markings for City approval, approval of which will not be unreasonably withheld. Licensee may notify City of violations of the posted reserved parking restricted spaces by unauthorized users. City will respond in a timely manner, during normal business

hours, to notifications of unauthorized use and issue parking citations for violations of posted restrictions. Licensee may park its vehicles in other available public parking spaces at its own expense. Licensee shall comply with the directives posted in public parking facilities, including on the Property.

7. **CONDITIONS OF USE:** Licensed use of Spaces is limited to Licensee branded car share vehicle parking, vehicle inspection by Licensee and onsite cleaning of Licensee's car share vehicles by Licensee's staff, provided there is no water runoff and cleaning complies with City and state storm water regulations. Licensee's vehicles must be maintained in good working order, free of graffiti or damage. Licensee may not engage in vehicle repair or oil changes on the Property.
8. **INDEMNITY:** Licensee shall indemnify, hold harmless, and defend City, its officers, employees and agents from and against any and all claims, demands, suits, liabilities, losses, damages and payments, including reasonable attorney fees' and court costs, claimed or made against City, its officers, employees or agents, related to, or arising from: (i) Licensee's installation of improvements or use of the Spaces or Property; (ii) Licensee's failure to properly inspect, maintain, secure, or maintain the Spaces, the Property or Licensee vehicles; or (iii) any breach or violation by Licensee hereunder. Licensee's indemnity obligations set forth in this Section 8 shall survive termination or expiration of this License.
9. **INSURANCE:** Licensee and Licensee's contractors performing work or services on the Property, if any, shall obtain and maintain in full force and effect during the term of this License, including any period during which Licensee or any Licensee contractors are performing work or services on the Property or so long as Licensee improvements or vehicles remain on the Property or in any Space, the insurance requirements in Attachment One to this License which is incorporated herein by this reference.
10. **SEVERABILITY:** Each provision of this License is intended to be severable. If any term or provision shall be determined by a court of competent jurisdiction to be illegal or invalid for any reason whatsoever, such provision shall be severed from this License and shall not affect the validity of the remainder of this License.
11. **CONDEMNATION:** In the event all or any portion of the Property is condemned for public use, Licensee shall receive compensation only in the amount awarded for the taking or damaging of Licensee's improvements. Any compensation for damages for taking Property or Licensee's license interest thereon awarded to Licensee shall be and hereby is assigned to City.
12. **LICENSE FEE:** Commencing on the date reserved parking signage is installed on any Space ("Commencement Date"), Licensee shall pay City a monthly fee of \$140 per month per Space. Following the Commencement Date, Licensee shall remit the monthly fee of \$280.00 to City in advance by the first day of each month.

For example, if the Commencement Date occurs on August 20<sup>th</sup>, the fee for August in the amount of \$280.00 shall be due and payable on August 20<sup>th</sup> and the fee for the month of September shall be due on September 1<sup>st</sup>. Partial months shall not be prorated.

13. **CONDITION OF EFFECTIVENESS:** As a condition precedent to the effectiveness of this License, Licensee shall have provided satisfactory proof of insurance each year during the term of this License.
14. **COMPLIANCE WITH APPLICABLE LAWS:** Licensee shall comply with all applicable state and federal laws that apply to the Spaces, including the Americans With Disabilities Act (ADA) of 1990, (42 U.S.C. 12101, et seq.), and any regulations and guidelines issued pursuant to the ADA.
15. **INTEGRATION:** This License constitute the complete expression of the agreement between the parties and supersedes any prior agreements, whether written or oral, concerning the subject of this License. Any modification of or addition to this License must be in writing signed by both parties. In the event of any conflict between the provisions of this License herewith, the terms of this License shall control.
16. **INDEPENDENT CAPACITY OF LICENSEE:** Licensee, its officers, agents, and employees shall act in an independent capacity and shall not represent themselves to be or be construed to be officers, agents, or employees of City.
17. **LICENSE NOT A LEASE:** This License does not constitute a lease, but constitutes a mere revocable non-exclusive license and Licensee is limited to the use of Spaces expressly and specifically described above. Licensee disclaims any interest that when coupled with the license herein granted would render it irrevocable.
18. **TIME OF ESSENCE:** Time is and shall be of the essence of this License and of each and every provision contained in this License.
19. **RELATIONSHIP:** The parties intend by this License to establish the relationship of licensor and licensee only and do not intend to create a partnership, joint venture, joint enterprise, or any business relationship other than that of licensor and licensee.
20. **CAPTIONS:** The captions in this License are for convenience only and are not a part of this License. The captions do not in any way limit or amplify the provisions hereof, and shall have no effect upon the construction or interpretation of any part hereof.

21. CHOICE OF LAW; VENUE: This License shall be construed, and its performance enforced, under California law. Any judicial proceeding in connection with any dispute under, or enforcement of, this License shall be brought in Sonoma County, California.

22. NOTICES: Except as otherwise specifically provided in this License, any notice, submittal or communication required or permitted to be served on a party shall be in writing and may be served by personal delivery to the person or the office of the person identified below. Either City or Licensee may from time to time designate an alternate person or office for service in a written notice given to the other. Notices shall be deemed sufficiently served five (5) days after the date of mailing by certified or registered mail, one (1) day after mailing by overnight courier, or upon personal delivery. Service may also be made by mail, by placing first-class postage, and addressed as indicated below, and depositing in the United States mail to:

To Licensee:           Attn: Franco Arieta, Regional General Manager  
                                  Zipcar, Inc.  
                                  191 2<sup>nd</sup> Street  
                                  San Francisco, CA 94105  
                                  Ph: (415) 606-4999

To City:                    Department of Finance  
                                  Attn: Parking Manager  
                                  90 Santa Rosa Avenue  
                                  Santa Rosa, CA 95404  
                                  Ph: (707) 543-3464  
                                  Fax: (707) 543-3139

23. AUTHORITY: Licensee hereby represents and warrants to City that it is (a) is a duly organized and validly existing state agency, formed and in good standing under the laws of the State of California; (b) has the power and authority and the legal right to conduct the business in which it is currently engaged; and (c) has all requisite power and authority and the legal right to consummate the transactions contemplated in this License. Licensee hereby further represents and warrants that this License has been duly authorized, and when executed by the signatory or signatories listed below, shall constitute a valid agreement binding on Licensee in accordance with the terms hereof.

If this License is entered into by a corporation, it shall be signed by two corporate officers, one from each of the following two groups: a) the chairman of the board, president or any vice-president; b) the secretary, any assistant

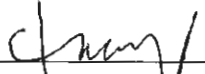
secretary, chief financial officer, or any assistant treasurer. The title and name of the corporate officers shall be printed under the signature.

The parties have executed this License as of the Effective Date.

**ZIPCAR, INC.**  
a Delaware Corporation

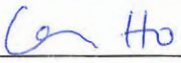
**CITY OF SANTA ROSA**  
a Municipal Corporation

*Signatures of Authorized Persons:*

By: 

Print Name: Tracey Chen

Title: President

By: 

Print Name: Len Ho

Title: Assistant Secretary

By: \_\_\_\_\_  
Chris Coursey, Mayor

ATTEST: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Office of the City Attorney

Business Tax Certificate No.: \_\_\_\_\_

Attachment:

Attachment One – Insurance Requirements

**ATTACHMENT ONE  
INSURANCE REQUIREMENTS FOR  
LICENSE AGREEMENTS**

**A. Insurance Policies:** Licensee shall, at all times during the term of this License, maintain and keep in full force and effect, the following policies of insurance with minimum coverage as indicated below and issued by insurers with AM Best ratings of no less than A-:VI or otherwise acceptable to the City.

<b>Insurance</b>	<b>Minimum Coverage Limits</b>	<b>Additional Coverage Requirements</b>
1. Commercial general liability	\$ 1 million per occurrence \$ 2 million aggregate	Coverage must be at least as broad as ISO CG 00 01 and must include completed operations coverage. If insurance applies separately to a project/location, aggregate may be equal to per occurrence amount. <b>Coverage may be met by a combination of primary and umbrella or excess insurance but umbrella and excess shall provide coverage at least as broad as specified for underlying coverage. Coverage shall not exclude subsidence.</b>
2. Business auto coverage	\$ 1 million	ISO Form Number CA 00 01 covering any auto (Code 1), or if Licensee has no owned autos, then hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$ 1 million per accident for bodily injury and property damage.
3. Workers' compensation and employer's liability	\$ 1 million	As required by the State of California, with Statutory Limits and Employer's Liability Insurance with limit of no less than \$ 1 million per accident for bodily injury or disease. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of the City for all work performed by the Licensee, its employees, agents and subcontractors.

**B. Endorsements:**

1. All policies shall provide or be endorsed to provide that coverage shall not be canceled by either party, except after prior written notice has been provided to the entity in accordance with the policy provisions.
2. Liability, umbrella and excess policies shall provide or be endorsed to provide the following:
  - a. For any claims related to this project, Licensee's insurance coverage shall be primary and any insurance or self-insurance maintained by City shall be excess of the Licensee's insurance and shall not contribute with it; and,
  - b. **The City of Santa Rosa, its officers, agents, employees and volunteers are to be covered as additional insureds on the CGL policy.** General

liability coverage can be provided in the form of an endorsement to Licensee's insurance at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of both CG 20 10 and CG 20 37 if a later edition is used.

**C. Verification of Coverage and Certificates of Insurance:** Licensee shall furnish City with original certificates and endorsements effecting coverage required above. Certificates and endorsements shall make reference to policy numbers. All certificates and endorsements are to be received and approved by the City before work commences and must be in effect for the duration of the License. The City reserves the right to require complete copies of all required policies and endorsements.

**D. Other Insurance Provisions:**

1. No policy required by this License shall prohibit Licensee from waiving any right of recovery prior to loss. Licensee hereby waives such right with regard to the indemnitees.
2. All insurance coverage amounts provided by Licensee and available or applicable to this License are intended to apply to the full extent of the policies. Nothing contained in this License limits the application of such insurance coverage. Defense costs must be paid in addition to coverage amounts.
3. Policies containing any self-insured retention (SIR) provision shall provide or be endorsed to provide that the SIR may be satisfied by either Licensee or City. Self-insured retentions above \$10,000 must be approved by City. At City's option, Licensee may be required to provide financial guarantees.
4. Sole Proprietors must provide a representation of their Workers' Compensation Insurance exempt status.
5. City reserves the right to modify these insurance requirements while this License is in effect, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.